



Sentencing Policy in Wisconsin: A Historical Outline

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SENTENCING POLICY IN WISCONSIN

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I. The First Era of Reform: 1975-1984

Legislators and criminal justice professionals first considered reforming Wisconsin's indeterminate sentencing system in the mid-1970s. While both groups considered introducing determinate sentencing, leaders in the judiciary, after discussion and research, decided instead to pursue sentencing guidelines for judges as a means to introduce reform within the then indeterminate system. To that end, the state Supreme Court created and funded a Felony Sentencing Guidelines project in 1980 to develop advisory guidelines based on previous sentencing practice in Wisconsin. The guidelines developed under the project were subsequently adopted into law by 1983 Wisconsin Act 371, and took effect statewide in January 1985.

II. The First Wisconsin Sentencing Commission: 1985-1995

Act 371 also created a Sentencing Commission to promulgate, monitor, and update the guidelines. During its decade of existence, the Commission expanded the guidelines system, eventually developing 16 guidelines that covered the vast majority of felony crimes; conducted research on alternatives to prison sentencing; and developed comprehensive databases on sentencing practices in the state. Despite its efforts, the Commission and the guidelines were both eliminated in the 1995 state budget bill, 1995 Wisconsin Act 27, returning Wisconsin's sentencing system to its previous, unreformed state.

III. Wisconsin Sentencing in Transition: 1995-1996

During the late 1980s and early 1990s, prison populations and costs in the state had increased significantly, and crime had become a leading concern of Wisconsin residents. Upon the demise of the Sentencing Commission, Governor Tommy G. Thompson responded to these concerns by appointing the Governor's Task Force on Sentencing and Corrections to propose more cost-effective methods for the management of corrections resources. However, the Task Force's far-reaching recommendations, which proposed a sweeping redirection of the state's corrections approach towards community supervision, were not accepted. Rather, the work was overtaken by proposals made by both Attorney General James E. Doyle and, later, Governor Thompson to replace the indeterminate sentencing system with "truth in sentencing." In his 1997 budget proposal, Governor Thompson largely ignored the Task Force's recommendations and instead proposed a truth in sentencing reform package that would eliminate parole in the state and require offenders to serve their full prison sentences before release.

IV. Debating Truth in Sentencing: 1997-1998

Thompson's proposal would stimulate extensive debate over truth in sentencing in the legislature. While supporters of Thompson's proposal, concentrated in the Assembly, emphasized the need to improve public perceptions of the sentencing system and alleviate public fears of crime, critics in the Senate raised concerns over its cost and punitive nature. Truth in Sentencing consequently deadlocked between the two chambers, which supported competing forms of truth in sentencing legislation, until a switch of partisan control in the Senate allowed a compromise bill to be passed. Enacted in June 1998, 1997

Wisconsin Act 283 created truth in sentencing in Wisconsin but delayed its implementation until December 31, 1999. In the meantime, the Criminal Penalties Study Committee, also created under the bill, was to make recommendations for policies that would supplement the system outlined in Act 283.

V. The Criminal Penalties Study Committee: 1998-1999

Specifically, the Committee was assigned the following duties:

- To develop a uniform classification system for all state felonies and class A misdemeanors, with all felonies brought together into a single code.
- To organize a new sentencing commission to promulgate new advisory sentencing guidelines and to develop temporary guidelines for use until the commission created its own.
- To adopt state Department of Corrections administrative rules in order to foster prompt return of community release violators for appropriate periods of time.

Along with its statutory charges, the Committee would also undertake efforts to educate criminal justice officials and the public on the new truth in sentencing law and to develop a computer model to forecast future space and resource needs in state prisons. While time and resource limitations prevented the Committee from fully achieving all of its intentions, it succeeded in completing its duties and assigned the remaining challenges to the Sentencing Commission they had created. The Committee issued its report in August 1999.

VI. Stasis: 1999-2002

As the Committee's recommendations were intended to be in place by the time truth in sentencing took effect, the legislature immediately took up legislation implementing them. However, with the legislature back under split partisan control, leaders in the opposing houses were unable to reach agreement on a proposal in time, and truth in sentencing began without guidelines or a Commission in place. After a period of further deadlock, Assembly and Senate leaders reached a compromise in the summer of 2002. The result, 2001 Wisconsin Act 109, enshrined the Committee's recommendations virtually unchanged.

VII. The New Wisconsin Sentencing Commission: 2003-Present

The temporary sentencing guidelines took effect in January 2003, and the new Sentencing Commission began meeting in October of that year, with authorized staff of two. Those staffpeople began work in January 2004. Since that time, the Commission has made great progress on its duties relating to guidelines and cost projection, revising and promulgating an updated guidelines format, and successfully integrating corrections and court data into a single database, which shall provide the foundation for more accurate and comprehensive sentencing research. The Commission has also undertaken several other research projects and educational efforts accordant with its statutory charges.